IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Bail Appl..No. 3666 of 2007()

(CRIME NO. 143/2007 of YEROOR POLICE STATION)

PETITIONER/ACCUSED NOS 1 TO 5

1. BABY ALEX, AGED 40, S/O.KUNJUKUNJU,
   ITTIMOOTTIL PUTHEN VEEDU, MUNGODU MURI,
   PATHANAPURAM.

2. SATHEESAN, AGED 38, S/O.SURA,
   PRANAVOM VEEDU, KURAVANTHERI, KARUKONE.

3. SUNIL, AGED 32, S/O.SURA, PRANAVOM VEEDU
   KURAVANTHERI, KARUKONE.

4. DEEPU KOSHI, AGED 21,
   S/O.LATE V.M.KOSHI, VAZHAYIL HOUSE,
   MUNGODE MURI, PATHANAPURAM.

5. MRS.SISILY, AGED 50,
   W/O.LATE V.M.KOSHI,
   VAZHAYIL HOUSE, MUNGODE MURI,
   PATHANAPURAM.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI. PRAVEEN K. JOY

RESPONDENTS: COMPLAINANT & STATE

1. STATE OF KERALA,
   REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   YEROOR POLICE STATION.

BY ADV. SRI. S.U. NAZER, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 3666 Of 2007

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Dated this the 19th day of June, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 5. They face allegations, inter alia, under Section 308 IPC. That is the only non-bailable offence alleged against the petitioners. The alleged incident took place on 06.06.07. Crime has been registered. The investigation is in progress. The petitioners apprehend imminent arrest.

2. Learned counsel for the petitioners submits that the allegations raised are totally unjustified. The parties are relatives. There is a civil suit between the parties. An order of injunction has been passed in favour of the petitioners. There is no worthwhile overt act, whatsoever, alleged against accused 2 to 5. The 5th accused is a widow aged about 50 years. The 4th accused is an Engineering student. Omnibus allegations have been raised against all the accused persons. In these circumstances, it is prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioners.

3. Learned Public Prosecutor opposes the application. Learned Public Prosecutor submits that, as against the 1st petitioner/accused, specific overt act is alleged. Subsequent report has been filed to include the allegation under Section 326 IPC also. In these circumstances, there is no justification in issuing directions under Section 438 Cr.P.C in favour of the petitioners. At any rate, as against the 1st accused, no such direction need be issued. I am satisfied that, in so far as, accused/petitioners 2 to 5 are concerned, directions under Section 438 Cr.P.C can be issued. In so far as 1st accused is concerned, he can be directed to appear before the learned Magistrate or before the Investigating Officer.

4. In the result, this application is allowed in part. This bail application is dismissed in so far as the 1st respondent is concerned and allowed in part in so far as the petitioners 2 to 5 are concerned.

i) The petitioners 2 to 5 shall surrender before the Learned Magistrate having jurisdiction at 11 a.m on 26.06.2007. They shall be released on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioners 2 to 5 shall make themselves available for interrogation before the investigating officer between 10 a.m. and 4 p.m on 27.06.2007 and 28.06.07 and thereafter they shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays, until further orders.

iii) If the petitioners 2 to 5 do not surrender before the learned Magistrate as directed in clause (i), all directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with them in accordance with law.

iv) if the petitioners 2 to 5 were arrested prior to their surrender to the learned Magistrate as directed in clause (i) above, they shall be released forthwith on their executing a bond of Rs.25,000/-(Rupees Twenty five thousand only) without any sureties undertaking to appear before the learned Magistrate as directed in clause(i) above.

(R.BASANT, JUDGE)

sj